

Application No.: 10/817,259
Amdt dated: January 2, 2008
Reply to Office action of October 1, 2007

REMARKS/ARGUMENTS

This Amendment is filed in response to the Office action that was mailed on October 1, 2007. By this Amendment, Claims 1-12 are canceled without prejudice and Claim 14 is amended. The amendments do not introduce new matter as they are fully supported by the Claims, Specification and Drawings as originally filed or are inherent characteristics thereof. Claims 14-20 are pending in the Application. Applicants respectfully request reconsideration and allowance of all Claims in view of the following remarks.

Claims 14-20 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. It is indicated in the Office action that independent Claim 14 recites a limitation of the pad having a first portion extending from the rib along the second planar surface and a second portion extending from the outer surface of the housing adjacent to the rib and having a width smaller than a width of the first portion, but that the written description does not provide support for the pad having first and second portions with different widths. It is also indicated in the Office action that the written description does not state that the drawings are drawn to scale and does not provide any criticality or support for the pad having multiple portions. Applicants respectfully traverse this rejection.

Support for Claim 14 is found in the Specification and Claims as originally filed or are inherent characteristics thereof. In the paragraph beginning at page 7, line 7 of the Specification, the surgical clip includes a first jaw (63) and a second or opposing jaw

Application No.: 10/817,259

Amdt dated: January 2, 2008

Reply to Office action of October 1, 2007

(65). An elastomeric pad (67) is formed on the jaw (63) and a similar pad (70) is formed on the jaw (65). In the paragraph beginning on page 7, line 18, ribs (76, 78) are molded with jaw (65) and rib (81) is molded with jaw (63). In the paragraph beginning on page 7, line 22, the ribs (76, 78) extend distally from a surface (83) and longitudinally on either side of the jaw (65), while in a transverse direction the ribs (76, 78) extend from a surface (85) of the jaw (65) upwardly in FIG. 5 into proximity with the upwardly facing surface (87) of the pad (70). The rib (81) is similarly formed on the jaw (63), but is positioned laterally between the ribs (76, 78). In the paragraph beginning at page 8, line 7, the ribs (76, 78, 81) are formed in proximity to the surface (83). To form the pad (70), the paragraph beginning at page 8, line 16, describes a special mold shutoff (90) being provided and placed against the surface (83) and at least partially seated on the upper surface (85) of the jaw (65). The mold shutoff (90) is specially configured so that it can also seat on the ribs (76, 78) with cutouts (92, 94) provided to accommodate the ribs (76, 78), respectively.

Based on the foregoing, Applicants respectfully submit that the Specification supports the limitation of the pad having a first portion extending from the rib along the second planar surface and a second portion extending from the outer surface of the housing adjacent to the rib to the first portion of the pad with the second portion of the pad having a width smaller than a width of the first portion of the pad. With the pad (70) extending from proximate the surface (83) and the ribs (76, 78) extending from a surface (85) of the jaw (65), upwardly in FIG. 5, into proximity with the upwardly facing surface (87) of the pad (70), it is inherent that the pad would have a smaller width in the

Application No.: 10/817,259

Amdt dated: January 2, 2008

Reply to Office action of October 1, 2007

area of the ribs (76, 78) than in the area distal the ribs and, hence, the pad would have a first portion extending from the rib along the second planar surface and a second, narrower portion extending from the outer surface of the housing adjacent to the rib to the first portion of the pad. Based on the foregoing, Applicants respectfully request that this rejection be reconsidered and removed.

Claims 14-20 were also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is indicated in the Office action that Claim 14 recites the limitation of the pad having a first portion extending from the rib along the second planar surface and a second portion extending from the outer surface of the housing adjacent to the rib to the first portion of the pad, and the second portion of the pad having a width smaller than a width of the first portion of the pad. It is also indicated in the Office action that it is unclear from this limitation as to how the second portion has a width smaller than the first portion because the dimension of the first portion is not clearly defined. It is further indicated in the Office action that Claim 14 merely states that the first portion extends from the rib, but does not state where it extends to, and that it is unclear as to where the second portion is located (via orientation) in the pad. Applicants respectfully traverse this rejection.

By this Amendment, independent Claim 14 is amended such that each of the first and second jaws has a proximal end proximate the housing and a second end away from the housing, the rib is proximate the proximal end of the second jaw, and the first portion of the pad extends distally along the second planar surface. Regarding the

Application No.: 10/817,259
Amdt dated: January 2, 2008
Reply to Office action of October 1, 2007

clarity of how the second portion of the pad has a width smaller than the first portion, Claim 14 comprises a pad attached to the second planar surface having a first portion extending from the rib distally along the second planar surface and a second portion extending from the outer surface of the housing adjacent to the rib to the first portion of the pad. The rib extends out from the second planar surface, proximate the proximal end of the second jaw, towards the first planar surface. Applicants respectfully submit that in this manner, the rib is encroaching on the surface area of the second planar surface, meaning that the second planar surface is smaller in the area of the rib and, hence, the pad would have a smaller width in the area of the rib. Regarding where the first portion of the pad extends to, Applicants respectfully submit that amended Claim 14 comprises the pad being attached to the second planar surface with the first portion of the pad extending from the rib distally along the second planar surface. Regarding where the second portion of the pad is located (via orientation) in the pad, Applicants respectfully submit that Claim 14 comprises the second portion of the pad extending from the outer surface of the housing, adjacent to the rib, to the first portion of the pad, which extends from the rib distally along the second planar surface, thereby describing the orientation of the second portion of the pad in relation to the first portion of the pad. Based on the foregoing, Applicants respectfully request that this rejection be reconsidered and removed.

Claims 1-9 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,653,720 to Johnson (Johnson '720) in view of U.S. Patent No. 6,802,848 to Anderson et al. (Anderson '848). Claims 1-12 were also

Application No.: 10/817,259
Amdt dated: January 2, 2008
Reply to Office action of October 1, 2007

rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,931,058 to Cooper (Cooper '058) in view of Anderson '848. By this Amendment, Claims 1-12 are canceled without prejudice and Applicants respectfully request that this rejection be reconsidered and removed.

In view of the foregoing remarks, it is respectfully submitted that this application is in condition for allowance. Accordingly, reconsideration of the application and allowance of claims 14-20 are respectfully requested. If the Examiner should have any remaining questions or objections, a telephone interview to discuss and resolve these issues is respectfully requested.

Sincerely

APPLIED MEDICAL RESOURCES

BY


David G. Majdali
Reg. No. 53,257
Tel: (949) 713-8233